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May 31, 2024

VIA ECF

Honorable P. Kevin Castel
U.S. District Court, Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street, Courtroom 11D
New York, NY 10007

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Re: *Fairstein v. Netflix, Inc. et al.*, No. 20-cv-8042 (PKC)
Request for Pre-Trial Ruling on Defendants' Proposed Preliminary Instructions

Dear Judge Castel:

Defendants Netflix, Inc., Ava DuVernay and Attica Locke respectfully submit this letter regarding Proposed Preliminary Instructions, as permitted by the Court pursuant to Defendants' request at the April 3, 2024 hearing (4/3/24 Hrg. Tr. at 124:17-23). Trial is scheduled to begin on June 10, 2024.

Defendants previously filed Proposed Jury Instructions (ECF No. 332) and a Memorandum in Response to Plaintiff's Proposed Jury Instructions and in Support of Certain Requested Instructions (ECF No. 333), which requested that certain Preliminary Instructions – Defendants' Proposed Instruction Nos. 3 and 4 – be given early in the case, before and after the Series is shown to the jury. *See* ECF No. 332, Prop. Instr. Nos. 3 and 4; ECF No. 333 at 8-10.

In view of the Court's ruling as to the timing of when the Series will be shown to the jury (during trial, not at the outset, *see* 4/3/24 Tr. at 6), Defendants have revised and consolidated their Proposed Preliminary Instructions. A copy of the Revised Preliminary Instruction is attached hereto as Attachment A and will be filed on the docket.

By this letter, Defendants request that, in advance of trial, the Court determine whether and in what form the Preliminary Instructions will be given. Defendants appreciate the Court's attention to this matter.

Respectfully submitted,

Bart H. Williams

/s/ Bart H. Williams

*Counsel for Defendants Netflix, Inc.,
Ava DuVernay and Attica Locke*

cc: All Counsel